

REMARKS

Claims 6, 7, 15, 16, 22 and 23 are pending in the application. The status of these claims is as follows

Claims / Section	35 U.S.C. Sec.	References / Notes
6, 7, 15, 16, 22 & 23	§103 Obviousness	<ul style="list-style-type: none">• Narisawa, et al. (U.S. patent no. 6,041,128); and• Leedom, et al. (U.S. patent no. 7,010,137).

5 Applicant has amended independent claims 6 and 22 to direct them to the embodiment in which the sealing and unsealing is effectuated via the battery chamber itself—an embodiment previously claimed only in claim 15. Claim 15 has been amended solely to correct a typographical error introduced with the previous amendment. Applicant thus bases the comments below based on
10 these amendments.

35 U.S.C. §103(a), CLAIMS 6, 7, 15, 16, 22 AND 23 OBVIOUSNESS OVER NARISAWA, IN VIEW OF LEEDOM

1. *Neither Peter or Meyer teach or suggest the claim element of implementing the test by the at least two different test modules running at least 15 partially in parallel in terms of time, according to amended claim 7.*

 In the OA, on pp. 2-4, the Examiner rejected independent claim 15 as being obvious in view of the combination of Narisawa and Leedom. The Examiner cited Narisawa as the primary reference, and indicated that Narisawa teaches all elements of claim 15, with the exception of providing a perfectly
20 airtight seal within the battery chamber as well as a ventilation mechanism, as

claimed. The Examiner then noted that these deficiencies can be overcome by an obvious modification, as taught by Leedom.

With regard to Narisawa, Narisawa is directed to a hearing aid in which a battery is placed within a battery compartment 40A and covered with a battery cover 42 (as illustrated in at least Figures 7-13B). The primary concern of Narisawa is to permit a sufficient air supply to the battery while at the same time preventing water from entering. 4/46-63. This is accomplished by the placement of a waterproof filter 70 being placed over the air vent 42C in the battery cover 42 (see, e.g., Figs 8, 9).

10 Applicant does not disagree with the Examiner that Narisawa discloses a turning motion that creates a lock between the battery compartment 40A and the battery cover 42. However, Applicant notes that the only discussion of sealing disclosed in Narisawa relates to a sealing against water and moisture, and not against air, i.e., Narisawa does not teach an air-tight seal—to the contrary,

15 Narisawa expressly permits an air flow despite the fact that it does seal against water. The mere fact that a lock is created between elements 42 and 40A, as indicated by the Examiner, is not sufficient to teach an air-tight seal. The Examiner does indicate, in the first full paragraph on p. 3, that Narisawa fails to provide a way of providing a perfectly airtight seal within the battery chamber.

20 Applicant would like to clarify that Narisawa fails to disclose a mechanism for providing any form of airtight seal.

Furthermore, claim 15 requires that the ventilation mechanism be configured to repeatedly enable and prevent the ventilation of the voltage source

without disassembling the housing or battery bay, yet disassembling the housing or battery bay is precisely what is being taught by Narisawa by the turning motion between elements 42 and 40A. Narisawa refers to the rotation of the battery cover 42 as being either in an “attachment rotational direction” (13/62-63) or a

5 “detachment rotational direction” (14/26-27). Narisawa then goes on to state (15/2-6):

10 Accordingly, since the battery cover 42, which is upper than the O-ring 45, floats from the battery compartment 40A, for example, even an aged person who is awkward can attach and detach the battery cover 42.

Thus, the mechanisms disclosed in Narisawa do not serve to perform any form of air sealing by the rotation, as required by claim 15, but rather serve as housing or battery bay disassembly mechanism.

15 The Examiner, on p. 3 of the OA, indicated that the Narisawa’s failure to disclose a way of providing a perfectly airtight seal within the battery chamber as well as a ventilation mechanism as claimed can be overcome by an obvious modification as taught by Leedom.

20 Leedom discloses, in Figures 22, 23, a pair of batteries 142, 144, each having a hole 146 that can be covered by an insulating member 141 of a switch 140. The insulating member 141 can be moved so that an aperture 148 of the insulating member 141 is moved over the hole 146 of either the first 142 or second 144 battery to provide air to the selected battery 142, 144.

25 However, even with these two references combined, the combination fails to teach or suggest an opening and closing of the battery chamber in an

essentially air-tight fashion. Even under an obviousness standard, to establish a

prima facie case of obviousness, all claim limitations must be taught or

suggested (MPEP §2143.03). The sealing of the battery chamber itself, as

claimed in claim 15, is advantageous over the teaching of the combined

5 references because it allows a sealing for a number of battery configurations.

Various types of hearing aid batteries, as produced by a number of different

manufacturers, have ventilation holes in a wide variety of locations, including on

a back side of the battery or on lateral surfaces of the battery. The sealing of the

battery shown in Leedom would only be effective with the hole location in a

10 specific place in the battery, and would not be effective if the holes were located

elsewhere. Advantageously, by sealing the battery chamber itself, the present

invention can accommodate any placement of the battery ventilation holes, which

Leedom is incapable of accomplishing.

Furthermore, the Examiner infers that one of ordinary skill in the art would

15 find it obvious to take the battery sealing mechanism of Leedom and be able to

implement it with what is taught by Narisawa in order to arrive at the present

invention. However, there is no teaching or suggestion as to how the battery

sealing mechanism disclosed by Leedom could be implemented with the

teaching of Narisawa to result in a battery chamber that can be air sealed and

20 unsealed by a rotating or turning motion of the chamber. Applicant recognizes

that the test for obviousness is not whether the features of a secondary

reference may be bodily incorporated into the structure of the primary reference,

but the claimed combination cannot change the principle of operation of the

primary reference or render the reference inoperable for its intended purpose (MPEP §2145(III)). In Narisawa the rotating or turning of the battery cover serves to disassemble the housing or battery bay, and the introduction of a battery cover, as taught by Leedom, would not address the fact that the rotating

5 or turning of the cover in Narisawa would still result in a disassembly of the housing or battery bay. The detachment of the battery cover, as taught by Narisawa, is essential to permit, as noted above, an aged person who is awkward to detach the battery cover (and, presumably, replace the battery). Thus, the implementation of the mechanism for repeatedly enabling and

10 preventing ventilation without disassembly in Leedom would thereby render Narisawa inoperable as it would not permit the cover to be removed so the battery could be replaced. One of ordinary skill in the art would not be able to apply the teaching of Leedom to what is taught by Narisawa to achieve the claimed invention without undue experimentation.

15 Independent claims 6 and 22 have been amended to include limitations directed to the battery chamber instead of the battery itself, and therefore the arguments above are applicable to these claims as well.

For these reasons, the Applicant asserts that the discussion above and the amended claim language clearly distinguishes the present invention over the

20 prior art, and respectfully request that the Examiner withdraw the §103(a) rejection from the present application.

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CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered, 5 the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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20 I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on November 10, 2006.

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